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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,437	05/25/2000	Jianhua Fan	12515.4USD1	6437
7590	05/17/2005		EXAMINER GELLNER, JEFFREY L	
Jianhua Fan 5800 Maudina Ave. #C2 Nashville, TN 37209			ART UNIT 3643	PAPER NUMBER

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/578,437

Applicant(s)

FAN, JIANHUA

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 27, 29, 44, 45 and 47-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 27, 29, 44, 45, 47-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “strip” of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 50 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 50, lines 2 and 3, "post" lacks antecedent basis. Perhaps, the term should be -- strip--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 29, 47, 50, 53, 55, and 56 are rejected under 35 U.S.C. §102(b) as being anticipated by Wilson et al. (GB 2198324 A).

As to Claim 1, Wilson et al. discloses a self watering tray (Figs. 1-5) for a plant pot (defined as 1 of Fig. 1) comprising a tray (3 as disclosed in Fig. 1; page 4 lines 5-8), the tray having side walls ("side wall" of Fig. 1) and a bottom wall ("bottom wall" of Fig. 1), the tray holding fluid (inherent in "water reservoir" of abstract; shown in Fig. 1; Fig. 4); and, at least one strip (7 of Fig. 2) extending upwardly (shown in Figs. 1-4) from the bottom wall for supporting a plant pot (1 of Figs. 3 and 4), each of the at least one strip separate (shown in Fig. 2) from each other (shown in Fig. 2), the at least one strip making enough space for reserving fluid in the tray (shown in Fig. 1).

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As to Claim 29, Wilson et al. further disclose a fluid intake lip ("lip" of Fig. 1), the fluid intake lip disposed on the side walls of the tray (see Fig. 1), so that fluid can easily be added into the tray through the fluid intake lip.

As to Claim 50, Wilson et al. further disclose the at least one post having a second section (8 of Figs. 1 and 2) the second section extending upward from the post (the post being 7 of Figs. 1 and 2).

As to Claim 47, Wilson et al. further disclose a wick (9 of Fig. 1), the wick provides a fluid conduit capable of sucking fluid from the tray ("moisture absorbing" of abstract).

As to Claim 53, Wilson et al. disclose a self watering tray (Figs. 1-5) for a plant pot (defined as 1 of Fig. 1) comprising a tray (3 as disclosed in Fig. 1; page 4 lines 5-8), the tray having side walls ("side wall" of Fig. 1) and a bottom wall ("bottom wall" of Fig. 1), the tray holding fluid (inherent in "water reservoir" of abstract; shown in Fig. 1; Fig. 4); and, at least one leg (for example, 7 and 8 of Fig. 2), the at least one leg having at least three wings (wings shown in Fig. 2 in that each leg has two wings that extend away from the wick and one wing which extends to and attaches to another leg) formed into one piece (in that the portions of the leg are attached in Figs. 1 and 2) and the at least three wings extending outwardly from the central part (Shown in Fig. 2), the at least three legs coupled to the tray for supporting a plant pot.

As to Claim 55, Wilson et al. further disclose the at least one three wing leg extends upwardly from the bottom wall of the tray (see Figs. 1 and 2).

As to Claim 56, Wilson et al. further disclose an up section (8 of Figs. 1 and 3) extending upwardly from the three wing leg.

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Claims 1, 47, and 48 are rejected under 35 U.S.C. §102(b) as being anticipated by Lucas et al. (FR 2719974 A1).

As to Claim 1, Lucas et al. discloses a self watering tray (Figs. 3, 5, and 6) for a plant pot (not shown but inherent in Fig. 6) comprising a tray (2 of Fig. 6), the tray having side walls (region around leadline of 2 of Fig. 6) and a bottom wall (region around leadline of 4 of Fig. 6), the tray holding fluid (shown in Fig. 6); and, at least one strip (14 of Figs. 3 and 6) extending upwardly (Fig. 3) from the bottom wall for supporting the plant pot, each of the at least one strip separate from each other (14 of Fig. 3), the at least one strip making enough space for reserving fluid in the tray (shown in Fig. 6).

As to Claim 47, Lucas et al. further discloses a wick (11 of Figs. 3, 5, and 6), the wick providing a conduit capable of sucking fluid from the tray (shown in Fig. 6).

As to Claim 48, Lucas et al. further discloses a tube (13 of Figs. 3 and 6), the wick inserted into the tube (shown in Figs. 3 and 6).

Claims 27, and 44 are rejected under 35 U.S.C. §102(b) as being anticipated by Rajon (FR 1544194) (document N of Examiner's 892 of office action paper no. 3).

As to Claim 27, Rajon discloses a self watering tray (Figs. 1-3) for a plant pot (G of Fig. 3) comprising a tray (A of Figs. 2 and 3), the tray having side walls (shown in of Figs. 2 and 3) and a bottom wall (region around leadline of A in Fig. 2), the tray holding fluid (shown in Fig. 3); and, at least one leg (C,D, and F of Fig. 1) coupled to the tray (shown in Fig. 3), the at least one leg having two sections , an up section (D of Figs. 1 and 3) and a low section (F and sidewall

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of region C of Fig. 1), the up section is smaller than the low section (shown in Figs. 1 and 3), low section having a closed side wall (the side wall, region of sidewall of element C), and it is hollow (region inside sidewall of C does not extend completely across diameter of C so the region is hollow), the up section formed upwardly from the low section (Fig. 1). a shoulder (region between D and extending out to C of Figs. 1 and 3) between the up section and low section supporting the plant pot (shown in Fig. 3).

As to Claim 44, Rajon further discloses the up section hollow (D of Fig. 1), the at least one leg filled with a fluid sucking material (E of Figs. 1 and 3) which provides a fluid conduit capable of sucking fluid from the tray (shown in Fig. 3).

Claims 27, 45, and 52 are rejected under 35 U.S.C. §102(b) as being anticipated by Travers (FR 2637156).

As to Claim 27, Travers discloses a self watering tray (Figs. 1-6c) for a plant pot (12 of Fig. 1) comprising a tray (20 of Fig. 1), the tray having side walls (Fig. 1) and a bottom wall (Fig. 1), the tray holding fluid (Fig. 1); and, at least one leg (18 of Figs. 1 and 2) coupled to the tray (shown in Fig. 1), the at least one leg having two sections , an up section (26 of Figs. 2 and 4c) and a low section (22 of Figs. 2 and 4c), the up section is smaller than the low section (shown in Figs. 2 and 4c), each of them having a closed side wall (Figs. 2 and 4c in that they do not have apertures on their sidewalls) and a top wall (22 of Fig. 2), and it is hollow (in that region between 22 and 24 is considered hollow), the up section extending upwardly from the center of the top wall of the low section, a shoulder (region where leadline of 22 touches leg 18 in Figs. 2 and 4c) between the up section and low section supporting the plant pot (shown in Fig. 1).

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As to Claim 45, Travers further discloses a wick (28 of Figs. 3 and 4c) accompanying the leg (shown in Figs. 4a and 4b) while the up section is not hollow (26 of Fig. 3)

As to Claim 52, Travers further discloses a pad (28a of Fig. 4a) under the leg for standing more stable on the tray bottom.

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 49 and 51 is rejected under 35 U.S.C. §103(a) as being unpatentable over Travers (FR 2637156) in view of Shirohata (JP7-313003).

As to Claim 49, the limitations of Claim 27 are disclosed as described above. Not disclosed is an intake lip on the side walls of the tray. Shirohata, however, discloses a lip (region at end of the tray's sidewall as shown in Fig. 6) on the sidewall of the tray. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Travers by adding a lip disclosed by Shirohata so as to provide to consumer tastes.

As to Claim 51, the limitations of Claim 29 are disclosed as described above. Travers further discloses a bottom wall (region around where leadline of 24 ends in Fig. 4a) on the lower section. Not disclosed is the bottom wall with a hole for fluid communications. Shirohata, however, discloses a bottom wall with a hole (shown in Fig. 1 in element 11). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of

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Travers by adding a hole in the bottom wall as disclosed by Shirohata so as to provide area for the wick.

Claim 54 is rejected under 35 U.S.C. §103(a) as being unpatentable over Wilson et al. (GB 2198324 A) in view of Travers (FR 2637156).

As to Claim 54, the limitations of Claim 53 are disclosed as described above. Not disclosed is a pad under the at least three wing leg. Travers, however, a pad under a leg (28b of Fig. 4a). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Wilson et al. by adding a pad under the leg as disclosed by Travers so as to ensure the wick stay in place.

Response to Arguments

Applicant's arguments filed 15 November 2004 have been fully considered but they are not persuasive. Applicant's arguments are: (1) Wilson does not disclose or suggest as least one strip (1st page of Remarks at 3rd paragraph); (2) Lucas et al. does not disclose or suggest at least one strip for supporting a pot (2nd page of Remarks at 2nd complete paragraph); and, (3) the leg of Travers is not the same as Applicant's leg as claimed in claim 27 (last page or Remarks at lines 1-3).

As to argument (1), Examiner considers Wilson's element 7 to be a strip. The element performs the same function and is structurally similar to Applicant's strip(leg) of Species I (Figs. 1,2,5A,6A, & 7).

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As to argument (2), Examiner considers Lucas et al.'s element 14 to be a strip. The element performs the same function and is structurally similar to Applicant's strip(leg) of Species I (Figs. 1,2,5A,6A, & 7).

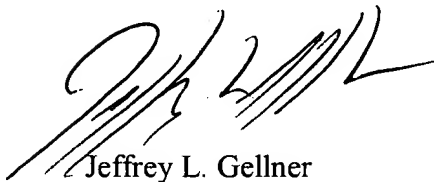
As to argument (3), Examiner considers Travers' leg to perform the same function and is structurally similar to Applicant's strip(leg) of Species I (Figs. 1,2,5A,6A, & 7).

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 571.272.6887. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 571.272.6891. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey L. Gellner

Primary Examiner